

REMARKS

Applicants request reconsideration and allowance in view of the following remarks.

Claims 1, 3-4, 6-45 are pending, with claims 1, 15, and 25 being independent. Claims 2 and 5 have been cancelled. Claims 1, 3-4, 6-7, 10-17, 20-27, 30-39, 41-44 have been amended. No new matter has been added.

Telephone Interview

Applicant notes with appreciation the interview with the Examiner on Monday July 21, 2008. During the interview, Eichstaedt reference was discussed. The substance of the interview is reflected in this response.

Missing Substantive Rejections of Claims 14, 24, and 35

Applicant notes the Office Action does not specifically reject claims 14, 24, and 35. While the Summary of the Office Action indicates that claims 14, 24, and 35 stand rejected, the Detailed Action omits any explanation of how any cited art anticipates (or renders obvious) these claims. Applicant respectfully submits that this omission amounts to a failure to articulate a prima facie case of unpatentability and the burden to rebut this "rejection" has not yet shifted to the Applicant. Consequently, a next Office action rejecting claims 14, 24, and 35 cannot properly be made final since only then would the Applicant be obligated to rebut the rejection, presuming that such an Office action sets forth a prima facie case. (See MPEP § 706.07(a)).

Eichstaedt in view of Short rejection

Claims 1, 3, 4, 6-45 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Eichstaedt (U.S. Patent Number 6,662,230) in view of Short (U.S. Patent Number 6,636,894). Applicants respectfully request reconsideration and withdrawal of this rejection because neither Eichstaedt, Short, nor any proper combination of the two describe or suggest the features of independent claims 1, 15, and 25, as described below.

As amended, independent claim 1 recites, among other features, "monitoring for connection transactions between multiple access requestors and access providers at a switch that is connected to the access providers and transfers data to and from the access providers" and "denying, at the switch, access by an attacking access requestor to the access providers when a number of connection transactions initiated by the attacking access requestor through the switch exceeds a configurable threshold number during a first configurable period of time." Applicants submit that neither Eichstaedt, Short, nor any proper combination of the two describe or suggest at least these features.

Eichstaedt does not teach or suggest monitoring for connection transactions between multiple access requestors and access providers at a switch that is connected to the access providers and transfers data to and from the access providers. Instead, Eichstaedt discloses the data protection system 11 that is capable of monitoring connection transactions. See Fig. 1. However, the data protection system 11 is situated within the access provider system 21. Therefore, the data protection system 11 is not a switch that is connected to multiple access providers and transfers data to and from the access providers.

In addition, Eichstaedt discloses a corporate gateway 22 that appears to connect clients to the access provider 11. See Fig. 1. The gateway 22, however, does not monitor for connection transactions between multiple access requestors and access providers. The gateway 22 also does not deny access by an attacking access requestor to the access providers, as required by claim 1.

Therefore, Eichstaedt fails to disclose or suggest a switch that is connected to the access providers and transfers data to and from the access providers - a switch that also monitors for connection transactions between multiple access requestors and access providers and denies access by an attacking access requestor to the access providers when a number of connection transactions initiated by the attacking access requestor through the switch exceeds a configurable threshold number during a first configurable period of time.

Short is similarly deficient in describing or suggesting a switch that monitors for connection transactions between multiple access requestors and access providers and denies access by an attacking access requestor to the access providers when a number of connection

transactions initiated by the attacking access requestor through the switch exceeds a configurable threshold number during a first configurable period of time. The router 18 in Short is not described to perform any kind of connection monitoring or denying, especially based on number of connection transactions initiated by the attacking access requestor.

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claim 1 along with its dependent claims.

Independent claims 15 and 25, although different in scope than independent claim 1 and each other, recite features similar to the above recited features of independent claim 1. Both independent claims 15 and 25 recite a switch that is connected to access providers and is capable of transferring data to and from the access providers, where the switch also denies access by an attacking access requestor to the access providers – a feature that is missing from both Eichstaedt and Short. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claims 15 and 25, along with their dependent claims, for at least the reasons presented above with respect to independent claim 1.

Claims 38-45 each depend directly or indirectly from independent claim 1. At least for the reason of that dependency and the reasons noted above with respect to independent claim 1, Applicants submit that claims 38-45 are allowable.

Conclusion

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

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Serial No. : 09/666,140
Filed : September 20, 2000
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Attorney's Docket No.: 06975-0131001 / Security 08

Applicant submits that all claims are in condition for allowance. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 12/16/2008


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